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JUN 17 PM 3:50  
CLERK OF U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

BONUTTI RESEARCH, INC.

Plaintiff,

vs.

HITACHI MEDICAL SYSTEMS  
AMERICA, INC.

Defendant.

) CASE NO. 5:98 CV 771  
)  
) JUDGE GWIN  
)  
)  
)  
) **PLAINTIFF'S REPLY TO**  
) **DEFENDANT'S COUNTERCLAIMS**  
)  
)  
)  
)

Plaintiff Bonutti Research, Inc. ("Bonutti Research") for its reply to the Counterclaim of Defendant Hitachi Systems America, Inc. ("Hitachi") states as follows:

1. In reply to Paragraph 88 of Hitachi's Answer and Counterclaim, Bonutti Research incorporates all allegations contained in the Complaint.
2. Bonutti Research admits the allegations in paragraph 89 of the Counterclaim.
3. Bonutti Research admits the allegations in paragraph 90 of the Counterclaim.
4. Paragraphs 91-94, inclusive, require neither admission nor denial because they purport to set forth the legal basis, subject matter jurisdiction, and venue for the action.

5. Bonutti Research admits the allegations in paragraph 95 of Hitachi's Answer and Counterclaim.

6. Bonutti Research denies the allegations in paragraphs 96 and 97 of Hitachi's Answer and Counterclaim.

### **AFFIRMATIVE DEFENSES**

7. Hitachi has failed in whole or in part to state claims for which relief may be granted.

8. Hitachi is precluded in whole or in part from bringing its Counterclaim by the unclean hands doctrine.

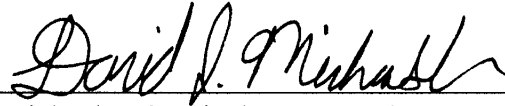
9. Hitachi has waived in whole or in part the claims purportedly set forth in its Counterclaim.

10. Hitachi is estopped in whole or in part from bringing the Counterclaim.

11. Bonutti Research expressly reserves the right to add additional affirmative defenses as they become known during discovery.

WHEREFORE, having fully replied to Hitachi's counterclaims, Bonutti Research respectfully requests that judgment be entered in its favor and that it be awarded its costs, attorneys' fees and such further relief as the Court may deem just and equitable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David J. Michalski", is written over a horizontal line.

Michael J. Garvin (390025394)

David J. Michalski (390063802)

OF COUNSEL:

HAHN LOESER & PARKS LLP

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(216) 621-0150

Attorneys for Plaintiff Bonutti Research, Inc.

**CERTIFICATE OF SERVICE**

A copy of the foregoing Plaintiff's Reply to Defendant's Counterclaims has been served by hand delivery upon John T. Wiedemann, Calfee Halter & Griswold LLP, 1400 McDonald Investment Center, 800 Superior Ave., Cleveland, Ohio 44114-2688, and by Federal Express and regular U.S. Mail, postage prepaid, upon Richard A. Mescon, Esq., Morgan, Lewis & Bockius LLP, 101 Park Avenue, New York, New York 10178, Attorneys for Defendant, Hitachi Medical Systems America, Inc., this 17<sup>th</sup> day of June, 1998.

  
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One of the Attorneys for Plaintiff